

Salem Hospital and American Federation of State, County and Municipal Employees, Council 93, AFL-CIO, Petitioner. Case 1-RC-21224

March 9, 2001

DECISION ON REVIEW AND ORDER
BY CHAIRMAN TRUESDALE AND MEMBERS
LIEBMAN AND HURTGEN

On October 4, 2000, the Board granted the Employer's request for review of the Acting Regional Director's Decision and Direction of Election solely with respect to his finding that case managers who have an RN license may be included in the existing RN unit.¹ The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Having carefully considered the record and the Employer's brief on review, we reverse the Acting Regional Director's decision and find that since the case managers are not required to be RNs, his inclusion in the existing RN unit of only those case managers who have an RN license was erroneous.

The Employer operates an acute care hospital. The hospital employs 11 case managers, 7 of whom are licensed registered nurses (RNs) and 4 of whom are licensed social workers. The case manager classification is new. It combines the duties previously performed by the health coordinators who did utilization review and social workers who did discharge planning.

The duties of all the Employer's case managers are typical of utilization review work and discharge planning generally performed in hospitals: gathering information from other professional staff and reading and interpreting patient charts to determine if the care being given a patient is appropriate and reimbursable under the patient's insurance coverage; tracking the patient throughout the stay; working with the patient to ensure efficient utilization of health care resources; working with third-party payors to ensure reimbursement to the hospital; and, in planning discharges, working with liaisons from other agencies and with third-party payors to transfer patients and arrange for necessary care after discharge.²

One of the Employer's health coordinators was a social worker; the others were RNs. All of the case managers, including the social workers, are being trained to perform both utilization review and discharge planning functions.

¹ In all other respects, the Board denied the request for review. Member Hurtgen, dissenting in part, would have granted the Employer's request for review in its entirety, i.e., he would review the issue of whether case managers are supervisors.

² *Pocono Medical Center*, 305 NLRB 398 (1991); *Trustees of Noble Hospital*, 218 NLRB 141 (1975).

The Petitioner seeks to include the case managers who are RNs in the existing RN unit.³ The Employer contends that case manager RNs should be excluded from the RN unit because RN licensing is not required for the position, the position is not staffed solely by RNs, and there are distinctions in community of interest between case manager RNs and the Employer's other RNs. The Acting Regional Director found that the case manager RNs, but not the case manager social workers, may be included in the existing unit.

In determining whether to include utilization review/discharge planning RNs in an RN unit, the Board has relied on whether the employer requires RN licensure for the position. Although the Board has not included all RNs in a hospital RN unit regardless of function, the Board generally has included in RN units those classifications which perform utilization review/discharge planning work where an employer requires or effectively requires RN licensing for the job. *Pocono Medical Center*, supra; *Middletown Hospital Assn.*, 282 NLRB 541, 578 (1986); *Frederick Memorial Hospital*, 254 NLRB 36 (1981); and *Trustees of Noble Hospital*, supra. In cases where utilization review/discharge planners were not required by the employer to be RNs, the Board has excluded them from the RN unit. *Charter Hospital*, 313 NLRB 951, 954 (1994); *Ralph K. Davies Medical Center*, 256 NLRB 1113, 1117 (1981); and *Addison-Gilbert Hospital*, 253 NLRB 1010, 1011-1012 (1981). For where RN licensing is not a job requirement, it must be concluded that RN education and training is not necessary to perform the job's functions. Thus, the Board, on a case-by-case basis, consistently and repeatedly has determined unit placement of utilization review/discharge planners based on the requirement of an RN license.

Here, the Employer does not require RN licensing for the case manager position. The case manager may either be an RN or a licensed social worker. Although the utilization review functions were traditionally performed predominantly by RNs, the work was also performed by a social worker. Thus, the fact that the four current social worker case managers are being trained to perform utilization review functions demonstrates that utilization review work at the Employer's facility does not require an RN license. Contrary to the Acting Regional Director's finding, the Board's Healthcare Rulemaking does not warrant dividing the Employer's case managers, who perform or will be performing the same work, into separate bargaining units based on whether they are holders of an RN license. Although the Rulemaking found RN

³ The Petitioner seeks to have the Board conduct an *Armour-Globe* election. *Globe Machine & Stamping Co.*, 3 NLRB 294 (1934); *Armour & Co.*, 40 NLRB 1333 (1942).

units to be appropriate, it left the issue of the placement in an RN unit to case-by-case adjudication.⁴ Further, contrary to the Acting Regional Director's finding, the Rulemaking does not preclude an analysis of community-of-interest factors in determining unit placement of

RNs. In the instant case, we find that the absence of a requirement for RN licensure for the Employer's case manager position demonstrates that case managers, some of whom hold an RN license, do not share a community of interest with the existing RN unit.

ORDER

The Acting Regional Director's finding that the Employer's case managers who have an RN license may be included in the existing RN unit is reversed and the case is remanded to the Regional Director for further appropriate action.

⁴ 54 Fed.Reg. 16344 (placement decisions) (1989). The Acting Regional Director noted that the collective-bargaining agreement described the unit as comprising "all full-time and regular part-time RNs," and suggested that inclusion of the case managers holding an RN license would be in order in view of the unit description. There is no indication in the record that the collective-bargaining agreement's provision was applied to the health care coordinators who were licensed RNs. Therefore, there is no evidence to establish that the parties viewed the unit description as encompassing all RNs regardless of their functions.